

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION  
OPIATE LITIGATION

This document relates to:

*“Track One Cases”*

MDL No. 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**NOTICE OF SERVICE OF DEFENDANT MALLINCKRODT’S  
MOTION FOR SEVERANCE OR A SEPARATE TRIAL**

Pursuant to the Directions Regarding Filing of Briefs Under Seal, ECF No. 1719, Mallinckrodt LLC, SpecGx LLC, and Mallinckrodt plc<sup>1</sup> (“Mallinckrodt”) hereby provide notice that on August 5, 2019, it served unredacted copies of the following documents on all Parties, the Court, and the Special Masters:

- Defendant Mallinckrodt’s Motion for Severance or a Separate Trial;
- Defendant Mallinckrodt’s Memorandum in Support of its Motion for Severance or a Separate Trial;
- Declaration of Erin R. Macgowan in Support of Defendant Mallinckrodt’s Motion for Severance or a Separate Trial along with corresponding Exhibits 1 to 10;
- [Proposed] Order Granting Mallinckrodt’s Motion for Severance or a Separate Trial; and
- Summary Sheet for Defendant Mallinckrodt’s Motion for Severance or a Separate Trial (also attached hereto as Exhibit A).

---

<sup>1</sup> Mallinckrodt plc is an Irish company that is not subject to and contests personal jurisdiction. It is specially appearing to join this motion and does not waive and expressly preserves its personal jurisdiction challenge; pursuant to Plaintiffs’ representation before the Court, foreign parent companies’ participation in pretrial briefing does not prejudice their jurisdictional arguments.

Dated: August 5, 2019

Respectfully submitted,

/s/ Brien O'Connor

Brien T. O'Connor

Andrew J. O'Connor

ROPES & GRAY LLP

Prudential Tower

800 Boylston Street

Boston, MA 02199-3600

(617) 235-4650

brien.o'connor@ropesgray.com

andrew.o'connor@ropesgray.com

*Counsel for Defendants*

*Mallinckrodt LLC and SpecGx LLC, and*

*appearing specially for Mallinckrodt plc*

# CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of August 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF System.

/s/ Brien T. O'Connor

Brien T. O'Connor  
ROPES & GRAY LLP  
Prudential Tower  
800 Boylston St.  
Boston, MA 02199-3600  
(617) 235-4650  
Brien.O'Connor@ropesgray.com

# EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION  
OPIATE LITIGATION

This document relates to:

*“Track One Cases”*

MDL No. 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**SUMMARY SHEET FOR DEFENDANT MALLINCKRODT’S  
MOTION FOR SEVERANCE OR A SEPARATE TRIAL**

**Motion Name:** Defendant Mallinckrodt’s Motion for Severance or a Separate Trial

**Moving Parties:** Mallinckrodt LLC, SpecGx LLC, and Mallinckrodt plc<sup>1</sup>

**Summary:** The planned mass trial of dozens of defendants will taint the jury and deprive Mallinckrodt of its Constitutional right to a fair trial.

1. A joint trial would require a jury to keep track of two Plaintiffs’ claims against more than 45 individual defendants and resolve nearly 1,000 questions of law and fact. This would result in significant jury confusion.

2. Plaintiffs would likely introduce inflammatory evidence relevant only to Mallinckrodt’s co-defendants and wholly unrelated to Mallinckrodt, which would result in severe “spillover” prejudice and increase the likelihood of a “guilt by association” verdict. Mallinckrodt would likely also need to defend itself against divergent and even antagonistic trial strategies and potential “finger pointing” aimed at Mallinckrodt by its co-defendants.

3. Limiting instructions cannot remedy the severe and irreparable prejudice Mallinckrodt would incur during the mass trial.

The Court should sever the claims against Mallinckrodt or order a separate trial of these claims.

**Motion Date:** August 5, 2019

---

<sup>1</sup> Mallinckrodt plc is an Irish company that is not subject to and contests personal jurisdiction. It is specially appearing to join this motion and does not waive and expressly preserves its personal jurisdiction challenge; pursuant to Plaintiffs’ representation before the Court, foreign parent companies’ participation in pretrial briefing does not prejudice their jurisdictional arguments.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5th day of August 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF System.

/s/ Brien T. O'Connor

Brien T. O'Connor  
ROPES & GRAY LLP  
Prudential Tower  
800 Boylston St.  
Boston, MA 02199-3600  
(617) 235-4650  
Brien.O'Connor@ropesgray.com